

May 31, 1961

Honorable George M. Ireland
County Attorney
Yavapai County
Prescott, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mr. Ireland:

You have presented us with two questions to answer. They are in connection with a vacancy occurring in the office of a Republican Precinct Committeeman. The questions are as follows:

"1. Is this an office which the Board of Superivisors has the power to fill by way of appointment under A.R.S. 11-251?"

"2. Must the newly appointed committeeman take an oath of office?"

"A.R.S. 11-251 Powers of board

*** 16. Fill by appointment all vacancies occurring in county or precinct offices."

To answer Question No. 1, it must be determined whether or not a Precinct Committeeman is a public office which the Board of Supervisors has the power to fill by way of appointment.

Our Supereme Court in the case of Tomaris v. State (71 Ariz. 147) stated three elements requisite to a position being a public office.

- "1. The specific position must be created by law.
2. There must be certain definite duties imposed by law on the incumbent.
3. They must involve some portion of the sovereign power."

Above are set-forth elements requisite to a position being a public office. Now we will consider the office of precinct committeeman.

ARTICLE 2. PARTY ORGANIZATION AND GOVERNMENT

"A.R.S. 16-231 County Committee

At the primary election the members of a political party residing in each precinct shall choose one of their number as county precinct committeeman, and in any precinct in which more than one hundred twenty-five votes as were cast at the last

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preceding general election for the nominee of the party for governor, the members shall choose one additional county precinct committeeman for each one hundred twenty-five votes or major fraction thereof cast. The whole number of county precinct committeemen of a political party shall constitute the county committee of the party."

From the foregoing we can see where the office of precinct committeeman would not fall within the realm of a public office. It is a political party office and any vacancies would be filled by the procedure provided in the particular by-laws of the particular political party. Therefore the answer to question No. 1 is no.

Inasmuch as the office of precinct committeeman is not a public office it is not mandatory that a precinct committeeman take an oath of office.

Very truly yours,

ROBERT W. PICKRELL
The Attorney General

JOHN J. CASEY
Assistant Attorney General

JJC:vbk